

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

IN RE: DIGITEK® PRODUCTS LIABILITY  
LITIGATION

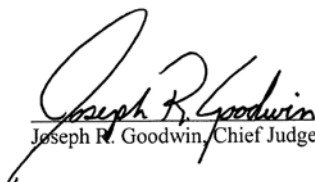
MDL NO. 1968

**ORDER**

The parties have briefed the Joint Petition for an Award of Attorneys' Fees and Expense Reimbursements Relating to Common Benefit Work [Docket 448]. They dispute whether the language of the settlement agreement entitles plaintiffs' counsel to an award of fees and costs from the Actavis defendants. I am considering whether Article XI of the settlement agreement is or is not ambiguous particularly when the agreement is read as a whole, and especially in view of Article II, Section 2.01(C). In ruling on the question of entitlement, I may need to consider parol evidence. So I direct the parties to file their briefs and exhibits discussing any parol evidence relevant to the matter no later than April 22, 2011. Any responses must be filed no later than April 29, 2011. When the responses arrive I will consider the matter fully briefed. I will advise the parties if an evidentiary hearing is necessary.

The court **DIRECTS** the Clerk to file a copy of this order in 2:08-md-1968.

ENTER: April 12, 2011

  
Joseph R. Goodwin, Chief Judge